

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTONIO LYNN FLUKER,

Plaintiff,

v.

Case No. 22-11992

GARY CARR, *et al.*,

Sean F. Cox

United States District Court Judge

Defendants.

/

ORDER
ADOPTING 5/18/23 REPORT AND RECOMMENDATION

Acting *pro se*, Plaintiff Antonio Lynn Fluker Jr. (“Plaintiff”) filed this action on August 24, 2022, along with an application to proceed *in forma pauperis*, which this Court granted.

Because Plaintiff is proceeding *in forma pauperis*, the applicable statute requires this Court to dismiss this case, at any time, if it fails to state a claim upon which relief may be granted. *See* 28 U.S.C. § 1915(b)(2) (“the court shall dismiss the case at any time if the court determines that” the action “fails to state a claim on which relief may be granted.”).

On September 29, 2022, this Court referred this matter to the magistrate judge for all pretrial proceedings. On May 18, 2023, Magistrate Judge Elizabeth A. Stafford issued a Report and Recommendation (“R&R”) wherein she recommended that the Court dismiss the case *sua sponte* for failure to state a claim. (ECF No. 11).

Pursuant to FED. R. CIV. P. 72(b), a party objecting to the recommended disposition of a matter by a magistrate judge must file objections to the R&R within fourteen (14) days after being served with a copy of the R&R. The district judge to whom the case is assigned reviews those objections, and any response to the objections from the opposing party. “The district judge may

accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3).

Plaintiff filed what appear to be untimely¹ objections to the R&R. Even if they had been timely filed, however, the Court finds them to be without merit. This Court agrees with the magistrate judge that Plaintiff’s motion for injunctive relief must be denied because the alleged conduct in his motion (that Defendant disclosed Plaintiff’s financial information to the United States Secret Service and illegally seized his property) is lacking in any factual details supporting his allegation that Carr acted as an agent of the government or was deprived of any rights guaranteed under the United States Constitution or federal law by a person acting ‘under color of state law.’” *See Anderson v. Clinton Twp. Police Dep’t*, No. 18-11291, 2019 WL 4392524, at *4 (E.D. Mich. June 30, 2019), *adopted*, 2019 WL 3213942 (E.D. Mich. July 2019); *Strickland on Behalf of Strickland v. Shalala*, 123 F.3d 863, 866 (6th Cir. 1997).

Accordingly, the Court **OVERRULES** Plaintiff’s Objections and **ADOPTS** the May 18, 2023, R&R.

IT IS SO ORDERED.

Dated: July 19, 2023

s/Sean F. Cox

Sean F. Cox
U. S. District Judge

¹Plaintiff’s objections were signed but not dated and were filed on June 6, 2023.